

2007-03-10:11

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Lori Gale, et al.

Plaintiffs,

v.

Catholic Healthcare Partners, et al.

Defendants.

Case No.

1:06cv1776

Judge:

JUDGE WELLS

MAG. JUDGE BAUGHMAN

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendants Catholic Healthcare Partners, Community Health Partners Regional Medical Center d/b/a/ Community Health Partners of Ohio d/b/a Community Health Partners Regional Medical Center a/k/a Community Health Partners. The Community Hospital of Springfield and Clark County d/b/a Community Hospital. Mercy Health System – Western Ohio a/k/a Mercy Medical Center of Springfield a/k/a Mercy Medical Center. St. Charles Mercy Hospital. The Sisters of Mercy of Hamilton, Ohio d/b/a Mercy Hospital Fairfield, Mercy Hospitals West d/b/a Mercy Franciscan Hospital Western Hills d/b/a Mercy Franciscan Hospital Mt. Airy, St. Rita's Medical Center d/b/a West Central Ohio Health Partners d/b/a St. Rita's Medical Center. Mercy Health System – Northern Region a/k/a Mercy Health Partners (Northern Region). Mercy Health Partners of Southwest Ohio a/k/a

Mercy Health Partners (Southwest Ohio Region), Community Mercy Health Partners, and Riverside Mercy Hospital d/b/a St. Anne Mercy Hospital (collectively "Defendants") provide this Notice of Removal of the action currently pending in the Court of Common Pleas for Lorain County, Ohio, Case No. 06CV146569 (the "State Court Action"), to the United States District Court for the Northern District of Ohio, Eastern Division at Cleveland. The grounds for this removal are as follows.

1. On or about June 9, 2006, Plaintiffs filed a Complaint against Defendants seeking compensatory damages, liquidated damages, declaratory and injunctive relief, and costs and attorneys' fees for overtime compensation under the Fair Labor Standards Act ("FLSA") and Ohio law and for allegedly unpaid wages for missed meal breaks under Ohio law (the "Complaint"). Plaintiffs assert collective and class action allegations.

2. The first of Defendants—Catholic Healthcare Partners, Community Health Partners Regional Medical Center, Community Hospital of Springfield and Clark County, St. Charles Mercy Hospital, Sisters of Mercy of Hamilton County, Mercy Hospitals West, St. Rita's Medical Center, and Mercy Health System-Northern Region, Mercy Health Partners of Southwest Ohio, and Community Mercy Health Partners, and Riverside Mercy Hospital—were served with a copy of the Complaint and Summons on June 26, 2006. This Notice of Removal has been filed within thirty days of Defendants' first receipt of the Complaint and Summons. This Notice is therefore timely filed under 28 U.S.C. § 1446(b).

3. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Court of Common Pleas for Lorain County, Ohio, in Case No. 06CV146569.

4. True and correct copies of all process, pleadings, and orders served upon Defendants in the State Court Action are attached as Exhibit A.

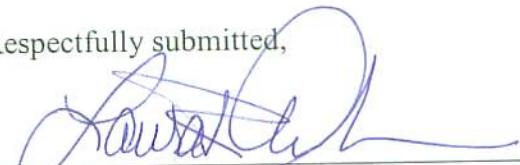
5. Plaintiffs filed this case in the Court of Common Pleas. Lorain County, Ohio: therefore, this case may properly be removed to the Eastern Division of the Northern District of Ohio.

6. This action is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction pursuant to 28 U.S.C. § 1337 and is removable pursuant to 28 U.S.C. § 1441(a) based upon the federal questions affirmatively and distinctly presented on the face of Plaintiffs' Complaint. Federal question jurisdiction exists because Plaintiffs allege that Defendants failed to compensate Plaintiffs for all hours worked in violation of the FLSA and seek to represent a class of similarly situated employees pursuant to 29 U.S.C. § 216(b).

7. Pursuant to Fed. R. Civ. P. 81(c), Defendants will answer, move or otherwise plead in response to the Complaint on or before July 31, 2006.

WHEREFORE, Defendants hereby remove to this Court the referenced action, Case No. 06CV146569, from the Court of Common Pleas of Lorain County, Ohio.

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

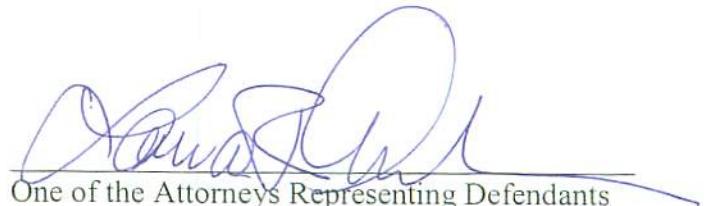
I hereby certify that a copy of the foregoing Notice of Removal was served by regular U.S. mail, postage prepaid, upon the following counsel for Plaintiffs this 24th day of July, 2006:

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